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IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,)	No. CR S-02-560 EJG
)	
Plaintiff,)	GOVERNMENT'S MOTION FOR
)	FURTHER ORDER EFFECTUATING
v.)	REVOCATION OF DEFENDANT'S
)	CITIZENSHIP AND ORDER
ROLAND ADAMS,)	
aka Harold Whiteaker,)	
aka Peter Brown)	
)	
Defendant.)	

On March 14, 2005, the court issued an order under 8 U.S.C. § 1451 revoking the defendant's citizenship. The government now respectfully moves for a further order effectuating that revocation.

Procedural History

A jury convicted the defendant on April 14, 2004 of committing fraud to obtain naturalization, in violation of 18 U.S.C. § 1425(a). The court sentenced him on March 11, 2005. His release date, according to the Bureau of Prisons website, is July 2, 2009.

1 On March 14, 2005, the Court ordered that the final order
2 admitting the defendant to citizenship be revoked, set aside, and
3 declared void. The Court further ordered cancelled the
4 certificate of naturalization issued to him on May 31, 2001.
5 Finally, the Court ordered him to surrender his original
6 certificate of naturalization to the Department of Homeland
7 Security, Bureau of Citizenship and Immigration Services.

8 The defendant appealed the conviction, and on June 29, 2006,
9 the Ninth Circuit affirmed the judgment and sentence. (C.A. No.
10 05-10176).

11 12 **Legal Standard**

13 Upon a person's conviction under 18 U.S.C. § 1425, the court
14 "shall thereupon revoke, set aside, and declare void the final
15 order admitting such person to citizenship, and shall declare the
16 certificate of naturalization of such person to be canceled." 8
17 U.S.C. § 1451(e). The trial court has jurisdiction to effectuate
18 this provision, and that jurisdiction lasts beyond the pendency
19 of the case. United States v. Inocencio, 328 F3d 1207, 1210 (9th
20 Cir. 2003). Furthermore, the court "shall make an order canceling
21 such certificate and shall send a certified copy of such order to
22 the Attorney General." 8 U.S.C. § 1451(f). Revocation of
23 naturalization under § 1451 is mandatory. United States v.
24 Inocencio, 328 F3d at 1209. The court may further order
25 surrendered the certificate of naturalization to the Attorney
26 General. 8 U.S.C. § 1451(f).

27 The pendency of an appeal does not divest the district court
28 of jurisdiction to effectuate these mandatory provisions. United

1 States v. Maduno, 40 F.3d 1212, 1218 (11th Cir. 1994) (cited in
2 United States v. Inocencio, 328 F3d at 1209). The defendant has
3 no right to notice or an opportunity to respond before
4 naturalization is revoked. United States v. Inocencio, 328 F.3d
5 at 1211.

6 **Discussion**

7 The undersigned has learned from the Department of Homeland
8 Security that the language in the attached proposed order will
9 ensure that the defendant's denaturalization is effectuated.

10 Respectfully submitted,

11 LAWRENCE G. BROWN
12 Acting United States Attorney

13 Date: *March 9, 2009*

By: /s/ Daniel S. McConkie

14 DANIEL S. McCONKIE
Assistant U.S. Attorney

15 Attorneys for the Plaintiff
16 UNITED STATES OF AMERICA

17 **O R D E R**

18 **IT IS ORDERED THAT** the defendant is forever restrained and
19 enjoined from claiming any rights, privileges, or advantages
20 under any document which evidences United States citizenship
21 obtained as a result of the defendant's naturalization on May 31,
22 2001.

23 **IT IS FURTHER ORDERED THAT** the defendant surrender and
24 deliver his Certificate of Naturalization (Certificate No.
25 26768818) (if he has not already done so), and any copies thereof
26 in his possession (and to make good faith efforts to recover and
27 then surrender any copies thereof that he knows are in possession
28 of others), to the Attorney General immediately; and also return

1 immediately to the Attorney General any other indicia of United
2 States citizenship, and any copies thereof in his possession (and
3 to make good faith efforts to recover and then surrender any
4 copies thereof that he knows are in the possession of others),
5 including, but not limited to, United States passports, voter
6 registration cards, and other voting documents. The defendant may
7 deliver these documents to the Attorney General by mailing them
8 to the following address:

9 United States Attorney's Office
10 Eastern District of California
11 Assistant U.S. Attorney Daniel S. McConkie
501 I Street, Suite 10-100
Sacramento, CA 95814

12 **IT IS FURTHER ORDERED THAT**, pursuant to 8 U.S.C. § 1451(f),
13 the Clerk send certified copies of the following documents to the
14 Attorney General: (1) this order; (2) the indictment, filed
15 December 19, 2002; (3) the Court's order of March 14, 2005, and
16 (4) the judgment, entered on March 21, 2005.

17
18
19 Dated: March 9, 2009

/s/ Edward J. Garcia
EDWARD J. GARCIA
United States District Judge